

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8561 of 1995

For Approval and Signature:

Hon'ble MS.JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

LALJI FOGA MOTIRAM

Versus

GUJARAT MARITIME BOARD

Appearance:

MR PB MAJMUDAR for Petitioner
SERVED for Respondent No. 1
MR HS MUNSHAW for Respondent No. 2

CORAM : MS.JUSTICE R.M.DOSHIT

Date of decision: 14/08/97

ORAL JUDGEMENT

Petitioner before this court has been serving under the respondent as an Electrician. The petitioner appears to have been initially appointed as an Assistant Tradesman under the Director of Ports in the Government. Under order dated 23rd July, 1973, he was granted temporary promotion as an Electrician. It is the claim

of the petitioner that the petitioner has since been serving continuously as an Electrician and is qualified to be appointed as Electrician. In the meantime, the petitioner's service appears to have been transferred to the respondent No.1 Board (hereinafter referred to as "the Board"). The petitioner claims that in the month of July, 1973, when the petitioner was promoted as an Electrician, the prevailing scale of pay admissible to the Electrician was that of Rs. 380-600, however, the petitioner was placed in the scale of Rs. 350-560. Thus, grave injustice was caused to the petitioner which has continued till today. Upon revision of pay, which became effective on 1st January, 1986, the payscales of the Electrician under the Board were revised from Rs. 380-600 to Rs. 1350-2200. However, since petitioner's pay was fixed in the scale of Rs. 350-560, his pay was revised to that of Rs. 1200-1900. Thus, the injustice caused to the petitioner in the year 1973 has been perpetuated even after the revision of pay. The petitioner has made number of representations to the Board in this regard, however, his representations do not seem to have been replied to.

2. Though the respondents are duly served, none of the respondent has filed counter-affidavit. It may be noted that the petitioner too in support of his contention has not produced any material to substantiate the averments made in the petition. However, it is apparent that the petitioner's claim for revision of pay with effect from 23rd July, 1973 is stale and requires to be rejected. The averments made in the petition also are vague. Petition does not disclose what are the qualifications possessed by the petitioner and what should be the qualification to be possessed by an Electrician. The petitioner has not placed the relevant material to substantiate his contention that other Electricians serving under the Board are paid salary in the higher scale. It is well settled law that the person claiming higher pay on the principle of "equal pay for equal work" must establish his claim. Such claim can be granted only if the parity is claimed against the persons who are similarly situated; who perform the same duty; who possess the same qualifications etc. Neither of these factors are satisfied by the petitioner. In the event, this petition can not be accepted for want of adequate material before the court.

3. The petitioner has been making representations in this regard to the Board since 1987. Neither of the representations made by the petitioner has been replied to by the Board. It should, therefore, be in the

interest of justice that the Board should be directed to consider the representations made by the petitioner and if the petitioner's claim appears to be genuine, the petitioner be granted the benefit of revised pay with effect from 1st January, 1986. The petitioner may make a fresh representation to the respondent No.1 Board in the subject matter of this petition within a period of six weeks from today. If such a representation is made, the respondent No.1 Board shall consider the same in accordance with law, and if the petitioner's claim is found to be genuine, he may be given the benefit of revision of pay with effect from 1st January, 1986 at par with other Electricians. Petitioner's representation shall be decided within a period of six months from the date of the receipt of the same. In the event the petitioner's representation is rejected, the petitioner shall have liberty to file a fresh petition.

4. Petition is allowed to the aforesaid extent.
Rule is made absolute accordingly. Respondent No.1 Board shall bear the costs of this petition.

JOSHI